

ALA American Library Association

November 21, 2005

The Honorable F. James Sensenbrenner
House Judiciary Committee
United States House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Chairman:

I am writing on behalf of the American Library Association to express our opposition to the Conference Report on H.R. 3199 ("Report"), the "USA PATRIOT and Terrorism Prevention Reauthorization Act of 2005." We are deeply disappointed that the conferees did not take this opportunity to heed the concerns of library users across this country and to restore protections for records of library use that were stripped away by the USA PATRIOT Act.

The conference report does not seriously address any of the library community's concerns with Section 215 of the USA PATRIOT Act. It does not require a factual connection between the records sought under this section and a terrorist, a terrorist organization, or someone in contact with a terrorist. The limited, after-the-fact ability to challenge the order, taken together with the failure to impose more stringent standards on the issuing of such orders, is not enough to assure the library community that the privacy of library users is safe from overly-broad searches.

The report also leaves in place the USA PATRIOT Act standards for National Security Letters. The report will allow the FBI to continue its unfettered reach into the personal electronic records of the public, including records of their use of the Internet through computers in libraries. Worse, it adds a criminal penalty for non-compliance with the order and for knowing violation of the gag order. And, while adding an ability to challenge the secrecy of an NSL on the one hand, it takes it away with the other by requiring the court to accept, as conclusive, the government's assertion of harm to national security, diplomatic relations, or a criminal investigation. This despite press reports of 30,000 National Security Letters being issued every year since the passage of the PATRIOT Act, concerning at least one member of the American Library Association.

After-the-fact reports and studies required for the use of Section 215 orders and National Security Letters strike us as an effort to give the appearance of addressing the concerns of the public without actually imposing any limits on the Department of Justice or the Federal Bureau of Investigation in regard to obtaining these records. A study to ascertain the *feasibility* of minimizing the retention of the potentially vast quantity of information collected on members of the public going about their lives is simply not adequate. As the Washington Post story on National Security Letters makes clear, real minimization of retention needs to be a top priority immediately.

The report also fails to honor the expressed intent of both Chambers to limit the sunset on Section 215 to four years. Instead, this and other sunsets are extended for seven more years—into the second decade of this century and beyond the next Administration. This would allow Congress to avoid its responsibility for oversight for 4 more Congresses. This is not acceptable.

Since the PATRIOT Act passed in 2001, the nation's library users and librarians have continually fought to ensure that privacy protections stripped away by the Act would be restored in reauthorization. The American public wants Congress to rein in the overreaching powers granted the government by the PATRIOT Act. We regret that the Conference Committee has, instead, given an utterly inadequate answer to what so many Americans have asked for.

Sincerely,

A handwritten signature in black ink that reads "Michael Gorman". The script is fluid and cursive, with the first name "Michael" and last name "Gorman" clearly legible.

Michael Gorman
President
American Library Association

Cc: Representative John Conyers

